

DANIEL E. LUNGREN, Attorney General  
of the State of California  
SUSAN K. MEADOWS  
Deputy Attorney General  
455 Golden Gate Avenue, Suite 6200  
San Francisco, California 94102-3658  
Telephone: (415) 703-2509

Attorneys for Complainant

BEFORE THE DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
STATE OF CALIFORNIA

In the Matter of the Petition	)	No. D-4816
to Revoke Probation Against:	)	
ZENA LINDEN, M.D.	)	DEFAULT DECISION OF THE
800 Pollard Road	)	DIVISION OF MEDICAL
Los Gatos, CA 95030	)	QUALITY, MEDICAL BOARD
Physician's and Surgeon's	)	OF CALIFORNIA, STATE
Certificate No. G-4971,	)	OF CALIFORNIA
Respondent.	)	

JURISDICTION

On June 9, 1992, Petition to Revoke Probation Number D-4816, Statement to Respondent, form Notices of Defense, Copy of Government Code Sections 11507.5, 11507.6 and 11507.7 and Request for Discovery forms as provided for by Government Code Sections 11503 and 11505 were mailed, via certified mail, to respondent Zena Linden, M.D. (hereinafter "respondent"), at her current address of record, 800 Pollard Road, Los Gatos, California, 95030. True and correct copies of the Petition to Revoke Probation and the accompanying documents mailed to respondent are attached hereto as Exhibit A. No certified mail receipt tag was ever returned to the Medical Board of California (hereinafter the

1 "Board"). Accordingly, thereafter, on November 17, 1992,  
2 respondent was personally served with the above referenced  
3 documents at her address of record, 800 Pollard Road #B207, Los  
4 Gatos, California. A true and correct copy of the proof of  
5 personal service is attached hereto as Exhibit B. As of December  
6 18, 1992, no Notice of Defense was received from respondent.

7           On December 18, 1992, a letter was sent by the Office  
8 of the Attorney General to respondent to her above referenced  
9 address of record and at her residence address, 644 West  
10 Remington Drive, Sunnyvale, California, 94087. A true and  
11 correct copy of the December 18, 1992 letter with attached proof  
12 of service is attached hereto as Exhibit C. Said letter advised  
13 respondent that the Board would proceed with a default decision  
14 in Case No. D-4816 unless a Notice of Defense was filed by  
15 respondent no later than December 31, 1992. As of the date of  
16 this default decision, no Notice of Defense has been filed by  
17 respondent.

18           Respondent has been duly served with said Petition to  
19 Revoke Probation, Statement to Respondent, form Notices of  
20 Defense, copies of relevant Government Code Sections, pursuant to  
21 Government Code sections 11503 and 11505 and has filed to file a  
22 Notice of Defense within the time allowed by Government Code  
23 section 11506. This default against respondent is duly entered  
24 pursuant to Government Code Section 11520.

25           The Division of Medical Quality of the Medical Board of  
26 California (hereinafter the "Division") has determined that  
27 respondent has waived her right to a hearing and to contest the

1 merits of the Petition to Revoke Probation, and that respondent  
2 is in default and that the Board will take full action on the  
3 Petition to Revoke Probation, and all documentary evidence,  
4 including the investigative file, on file herein, without a  
5 hearing as provided by Government Code Section 11520.

6 FINDINGS OF FACT

7 The Division now makes the following findings of fact:

8 1. Dixon Arnett, complainant herein<sup>1/</sup>, is the  
9 Executive Director of the Medical Board of California, State of  
10 California, and makes the charges and allegations in the Petition  
11 to Revoke Probation No. D-4816 solely in his official capacity.

12 2. At all times material herein, respondent Zena  
13 Linden, M.D., has held physician and surgeon certificate no.  
14 G4971 which was issued to respondent on October 2, 1958. Said  
15 certificate is due to expire on March 31, 1995. Disciplinary  
16 action was taken against respondent's certificate on June 6, 1991  
17 and respondent's certificate was revoked with revocation stayed,  
18 and respondent was placed on five years probation subject to  
19 certain terms and conditions.

20 3. On or about May 31, 1990, an Accusation, was issued  
21 against respondent. This Accusation alleged unprofessional  
22 conduct.

23 4. On or about March 6, 1991, Administrative Law Judge  
24 Catherine B. Frink issued a Proposed Decision.

25 5. On or about May 7, 1991, the Board adopted the  
26 Proposed Decision as its Decision and ordered that it become  
27

---

1. Kenneth J. Wagstaff was the former Executive Officer.

1 effective on June 6, 1991.

2           6. In finding that respondent had engaged in  
3 unprofessional conduct the Board revoked respondent's Physician  
4 and Surgeon Certificate, No. G4971, but stayed the revocation and  
5 placed respondent on probation for five (5) years subject to  
6 numerous terms and conditions. The relevant portions of the  
7 Order's terms and conditions of probation are set forth below.

8           7. Term and condition "A" states in pertinent part  
9 that within 60 days of the effective date of the Decision  
10 respondent shall submit to the Division for its approval a course  
11 in Ethics which respondent shall complete during the first year  
12 of probation.

13           8. Term and condition "B" states in pertinent part  
14 that within 90 days of the effective date of the Decision  
15 respondent shall submit to the Division for its prior approval an  
16 educational program or course to be designated by the Division  
17 for each year of probation.

18           9. Term and condition "C" states in pertinent part  
19 that within 30 days of the effective date of the Decision  
20 respondent shall submit to the Division for its prior approval a  
21 plan of practice where respondent's practice shall be monitored  
22 by another physician.

23           10. Term and condition "D" states in pertinent part  
24 that respondent shall obey all laws and rules governing the  
25 practice of medicine in California.

26           11. Term and condition "E" states in pertinent part  
27 that respondent shall submit quarterly declarations stating

1 whether there has been compliance with all the conditions of  
2 probation.

3 12. Term and condition "F" states in pertinent part  
4 that respondent shall comply with the Division's probation  
5 surveillance program.

6 13. Term and condition "G" states in pertinent part  
7 that respondent shall appear in person for interviews with the  
8 Division's medical consultant upon request.

9 14. Term and condition "J" states in pertinent part  
10 that if respondent violates probation in any respect that the  
11 Division may revoke probation and carry out the disciplinary  
12 order that was stayed.

13 15. On or about May 15, 1991, a letter was sent to  
14 respondent's address of record requesting that she contact the  
15 Board for her initial probation interview. There was no response  
16 from respondent.

17 16. On or about June 6, 1991, Gerald McClellan, Senior  
18 Investigator for the Board, telephoned respondent and left a  
19 message with her answering service for her to contact him. There  
20 was no response from respondent.

21 17. On or about June 10, 1991, Investigator McClellan  
22 again left a message for respondent to call him.

23 18. On or about June 11, 1991, the original May 15,  
24 1991, letter was sent certified mail. The return receipt was  
25 dated June 25, 1991, with a signature apparently of respondent.

26 19. On or about June 20, 1991, respondent called  
27 Investigator McClellan to inform him that she had been out of

1 town for family reasons. During this conversation an initial  
2 probation interview appointment was scheduled for July 1, 1991.

3 20. On or about July 1, 1991, respondent called to  
4 cancel the probation interview because of an alleged auto  
5 accident. Respondent was advised to reschedule the appointment.  
6 Respondent has never rescheduled the appointment.

7 21. On or about August 7, 1991, a second certified  
8 letter was sent to respondent advising her of the probation  
9 violations. In addition, the letter offered respondent an  
10 opportunity to present any explanations and it explained that  
11 continued nonresponsiveness would result in further legal action.

12 22. On or about August 15, 1991, Investigator  
13 McClellan went to respondent's office and while in the waiting  
14 room buzzed for her. Respondent entered the waiting room and  
15 admonished him that she was in treatment with a patient.  
16 Investigator McClellan then personally delivered to respondent  
17 the August 7, 1991 letter and requested that she please respond.  
18 To date, respondent has failed to do so.

19 23. Respondent has failed to submit for approval a  
20 course in Ethics within the 60 day requirement of term and  
21 condition "A".

22 24. Respondent has failed to submit for approval  
23 continuing education programs within the 90 day requirement of  
24 term and condition "B".

25 25. Respondent failed to submit for approval a  
26 monitored plan of practice within the 30 day requirement of term  
27 and condition "C".

1           26. Respondent has violated term and condition "E" by  
2 failing to submit quarterly declarations.

3           27. Respondent has violated term and condition "G" by  
4 failing to appear in person for interviews with the Division's  
5 medical consultant.

6                               DETERMINATION OF ISSUES

7   I

8           28. Respondent's conduct as set forth above  
9 constitutes a violation of condition "J" of her probation, and  
10 constitutes unprofessional conduct under Business and Professions  
11 Code Section 2234. Therefore, respondent's license is subject to  
12 disciplinary action and cause for revocation of probation is  
13 established.

14   II

15           29. Respondent failed to cooperate with Board  
16 investigators in the probation surveillance program as mandated  
17 by 16 California Code of Regulations section 1358, thus violating  
18 term and condition "F" of her probation. Therefore cause for  
19 revocation of probation exists.

20   III

21           30. By disregarding 16 California Code of Regulations  
22 § 1358, respondent has failed to obey all laws and rules  
23 governing the practice of medicine. Thus, respondent violated  
24 condition "D" of probation and cause for revocation of probation  
25 exists.

26   ORDER

27 WHEREFORE, the following order is hereby made:

1           1. Physician and surgeon's certificate number G4971  
2 heretofore issued to respondent Zena Linden, M.D., is hereby  
3 revoked, separately and severally, as to each of the  
4 Determination of Issues I through III set forth above.

5           2. Respondent shall not be deprived of making any  
6 further showing by way of mitigation; however, such showing must  
7 be made to the Medical Board of California, 1426 Howe Avenue,  
8 Sacramento, California, 95825, prior to the effective date of  
9 this decision.

10           This decision shall become effective on December 3,

11 1993.

12           IT IS SO ORDERED this 3rd day of November,

13 1993.

14  
15   
16 MEDICAL BOARD OF CALIFORNIA  
17 STATE OF CALIFORNIA

18 03573160SF92AD0145  
19 Board Case No. 03 90 640P  
20  
21  
22  
23  
24  
25  
26  
27



DANIEL E. LUNGREN, Attorney General  
of the State of California  
SUSAN K. MEADOWS  
Deputy Attorney General  
455 Golden Gate Avenue, Suite 6200  
San Francisco, California 94102-3658  
Telephone: (415) 703-2509

Attorneys for Complainant

BEFORE THE DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
STATE OF CALIFORNIA

In the Matter of the Petition	)	No. D-4816
to Revoke Probation Against:	)	
ZENA LINDEN, M.D.	)	PETITION TO REVOKE
800 Pollard Road	)	<u>PROBATION</u>
Los Gatos, CA 95030	)	
Physician's and Surgeon's	)	
Certificate No. G-4971,	)	
Respondent.	)	

KENNETH WAGSTAFF, the complainant herein alleges as follows:

1. He is the Executive Officer of the Medical Board of California (hereinafter the "Board") and makes and files this Accusation solely in his official capacity as such.

2. On or about October 10, 1958, ZENA LINDEN (hereinafter "respondent") was issued Physician and Surgeon's Certificate No. G4971 with an expiration date of March 31, 1993. On or about June 6, 1991, respondent's license was disciplined by the Board in Case No. D-4264. A copy of the Board's Decision and the Accusation filed in that matter is incorporated herein and attached hereto as Exhibit A.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35
- 36
- 37
- 38
- 39
- 40
- 41
- 42
- 43
- 44
- 45
- 46
- 47
- 48
- 49
- 50
- 51
- 52
- 53
- 54
- 55
- 56
- 57
- 58
- 59
- 60
- 61
- 62
- 63
- 64
- 65
- 66
- 67
- 68
- 69
- 70
- 71
- 72
- 73
- 74
- 75
- 76
- 77
- 78
- 79
- 80
- 81
- 82
- 83
- 84
- 85
- 86
- 87
- 88
- 89
- 90
- 91
- 92
- 93
- 94
- 95
- 96
- 97
- 98
- 99
- 100

2  
3  
4  
5  
6  
7  
8

9  
10  
11  
12  
13  
14

## 15

16  
17

18  
19

20  
21  
22

23  
24  
25

2'

1 stayed the revocation and placed respondent on probation for five  
2 (5) years subject to numerous terms and conditions. The  
3 relevant portions of the Order's terms and conditions of  
4 probation are set forth below.

5           9. Term and condition "A" states in pertinent part  
6 that within 60 days of the effective date of the Decision  
7 respondent shall submit to the Division for its approval a course  
8 in Ethics which respondent shall complete during the first year  
9 of probation.

10           10. Term and condition "B" states in pertinent part  
11 that within 90 days of the effective date of the Decision  
12 respondent shall submit to the Division for its prior approval an  
13 educational program or course to be designated by the Division  
14 for each year of probation.

15           11. Term and condition "C" states in pertinent part  
16 that within 30 days of the effective date of the Decision  
17 respondent shall submit to the Division for its prior approval a  
18 plan of practice where respondent's practice shall be monitored  
19 by another physician.

20           12. Term and condition "D" states in pertinent part  
21 that respondent shall obey all laws and rules governing the  
22 practice of medicine in California.

23           13. Term and condition "E" states in pertinent part  
24 that respondent shall submit quarterly declarations stating  
25 whether there has been compliance with all the conditions of  
26 probation.

27           14. Term and condition "F" states in pertinent part

1 that respondent shall comply with the Division's probation  
2 surveillance program.

3 15. Term and condition "G" states in pertinent part  
4 that respondent shall appear in person for interviews with the  
5 Division's medical consultant upon request.

6 16. Term and condition "J" states in pertinent part  
7 that if respondent violates probation in any respect that the  
8 Division may revoke probation and carry out the disciplinary  
9 order that was stayed.

10 17. On or about May 15, 1991, a letter was sent to  
11 respondent's address of record requesting that she contact the  
12 Board for her initial probation interview. There was no response  
13 from respondent.

14 18. On or about June 6, 1991, Gerald McClellan, Senior  
15 Investigator for the Board, telephoned respondent and left a  
16 message with her answering service for her to contact him. There  
17 was no response from respondent.

18 19. On or about June 10, 1991, Investigator McClellan  
19 again left a message for respondent to call him.

20 20. On or about June 11, 1991, the original May 15,  
21 1991, letter was sent certified mail. The return receipt was  
22 dated June 25, 1991, with a signature apparently of respondent.

23 21. On or about June 20, 1991, respondent called  
24 Investigator McClellan to inform him that she had been out of  
25 town for family reasons. During this conversation an initial  
26 probation interview appointment was scheduled for July 1, 1991.

27 22. On or about July 1, 1991, respondent called to

1 cancel the probation interview because of an alleged auto  
2 accident. Respondent was advised to reschedule the appointment.  
3 Respondent has never rescheduled the appointment.

4           23. On or about August 7, 1991, a second certified  
5 letter was sent to respondent advising her of the probation  
6 violations. In addition, the letter offered respondent an  
7 opportunity to present any explanations and it explained that  
8 continued nonresponsiveness would result in further legal action.

9           24. On or about August 15, 1991, Investigator  
10 McClellan went to respondent's office and while in the waiting  
11 room buzzed for her. Respondent entered the waiting room and  
12 admonished him that she was in treatment with a patient.  
13 Investigator McClellan then personally delivered to respondent  
14 the August 7, 1991 letter and requested that she please respond.  
15 Respondent failed to do so.

#### 16                   CAUSES FOR REVOCATION OF PROBATION

17           25. The allegations of paragraphs 5 through 24 are  
18 incorporated herein as if fully set forth.

19           26. Respondent failed to submit for approval a course  
20 in Ethics within the 60 day requirement of term and condition  
21 "A".

22           27. Respondent failed to timely submit for approval  
23 continuing education programs within the 90 day requirement of  
24 term and condition "B".

25           28. Respondent failed to timely submit for approval a  
26 monitored plan of practice within the 30 day requirement of term  
27 and condition "C".

1           29. Respondent failed to cooperate with Board  
2 investigators in the probation surveillance program as mandated  
3 by 16 Cal.Code Regs § 1358, thus violating term and condition  
4 "F".

5           30. By disregarding 16 Cal.Code Regs § 1358,  
6 respondent has failed to obey all laws and rules governing the  
7 practice of medicine. Thus condition "D" is also violated.

8           31. Respondent has violated term and condition "E" by  
9 failing to submit timely quarterly declarations.

10           32. Respondent has violated term and condition "G" by  
11 failing to appear in person for interviews with the Division's  
12 medical consultant.

13           33. Respondent's conduct as alleged in paragraphs 25  
14 through 32 above constitutes a violation of condition "J" of her  
15 probation, and constitutes unprofessional conduct under section  
16 2234. Therefore, respondent's license is subject to disciplinary  
17 action.

18           WHEREFORE, complainant prays that the Board hold a  
19 hearing on the matters hereinabove alleged and after that hearing  
20 issue an order:

21           1. Revoking probation and carrying out the  
22 disciplinary order that was stayed;

23           2. Suspending or revoking respondent's Physician and  
24 Surgeon's Certificate; and

25 //

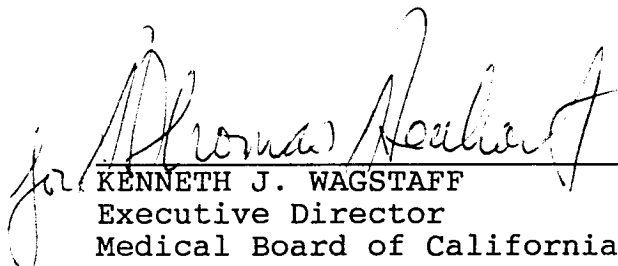
26 //

27 //

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

3. Taking such further action as deemed necessary and proper.

DATED: July 9, 1992

  
KENNETH J. WAGSTAFF  
Executive Director  
Medical Board of California  
State of California

Complainant

03573160SF92AD0145

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
STATE OF CALIFORNIA

In the Matter of the Accusation	)	
Against:	)	
	)	
ZENA LINDEN, M.D.	)	Case No. D-4264
800 Pollard Road, #B-207	)	
Los Gatos, California 95030	)	OAH Case No. N-36395
Physician and Surgeon License	)	
No. G4971	)	
	)	
Respondent.	)	
	)	

---

DECISION

The attached Proposed Decision of the Administrative Law  
Judge is hereby adopted by the Medical Board of California  
as its Decision in the above-entitled matter.

This Decision shall become effective on June 6, 1991.

IT IS SO ORDERED May 7, 1991.

  
\_\_\_\_\_  
THERESA L. CLAASSEN  
Secretary/Treasurer



BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
STATE OF CALIFORNIA

In the Matter of the Accusation	)	
Against:	)	
	)	
ZENA LINDEN, M.D.	)	Case No. D-4264
800 Pollard Road, #B-207	)	
Los Gatos, California 95030	)	OAH Case No. N-36395
Physician and Surgeon License	)	
No. G4971	)	
	)	
Respondent.	)	
	)	

---

PROPOSED DECISION

Catherine B. Frink, Administrative Law Judge, Office of Administrative Hearings, heard this matter on January 22, 1991 at San Jose, California.

Alfredo Terrazas, Deputy Attorney General, represented complainant.

Respondent was present and represented herself.

FINDINGS OF FACT

I

Complainant Kenneth Wagstaff is the Executive Director of the Medical Board of California ("the Board") and made and filed the accusation solely in his official capacity.

II

At all times since October 2, 1958, and continuing until March 31, 1987, Zena Linden, M.D. ("respondent") held physician and surgeon license No. G4971 authorizing her to practice medicine in the State of California. An accusation was filed against respondent's license on April 12, 1977; the accusation was subsequently dismissed on August 9, 1978. Respondent's license was in a cancelled status from March 31, 1987 until September 30, 1989. Said license is currently in good standing and will expire unless renewed on March 31, 1991.

III

Respondent practices as a psychiatrist in Los Gatos, California; she is board-eligible in psychiatry. Respondent

began full-time private practice in 1971. From 1971-1985, respondent worked as part of an 8-partner group in San Jose, California. Respondent was the only psychiatrist in the group. In 1985, respondent became a partner with 3 licensed psychologists at the Los Gatos Psychotherapy Group.

Respondent's practice consists of individual and conjoint family therapy involving patients ranging in age from 19-72. Respondent also conducts 2 women's therapy groups. From 1975-1990, respondent was involved with Rubicon Children's Center, a residential treatment facility for children ages 4-12; for the first 7 years, respondent was the staff psychiatrist, and for the following 8 years, respondent was on the board of directors.

Respondent is a member of the American Medical Women's Association; she does not belong to any professional associations specifically dedicated to the practice of psychiatry. Respondent subscribes to the Journal of Clinical Psychiatry. She has no hospital privileges and does not supervise any interns or students. She is currently working on a book about the treatment of individuals with multiple personalities.

#### IV

In January of 1987, and continuing until July of 1987, patients T.M. and C.M., who were husband and wife, respectively, but separated from each other, saw respondent for psychotherapy. C.M. and T.M. each saw respondent in separate weekly sessions.

#### V

T.M. had previously been a patient of respondent's between 1971 and 1973 for individual and group therapy. T.M. and C.M. had some conjoint sessions at that time; T.M. was the primary patient. T.M. and C.M. came to respondent for counseling in 1987 because they had trust and confidence in her based upon their prior relationship.

Respondent considered the therapy sessions between herself and T.M. to be more superficial than the intensive psychotherapy of 17 years previously; respondent felt that T.M. had already resolved most issues concerning his feelings for his wife and the future of their marriage. Respondent's individual therapy sessions with C.M. were somewhat more intense, as C.M. was less certain in her feelings about the marriage.

#### VI

Between 1983 and 1985, respondent was a partner in a training program for divorcing couples called "Separate Paths." This program was intended to help couples end their marriages through mediation rather than by litigation. The Internal Revenue Service disallowed certain expenses associated with this program and demanded a large payment in back taxes and penalties.

Respondent was facing financial ruin, including the possible loss of her home.

In February of 1987, respondent needed to borrow \$47,000.00 from private sources to pay the immediate IRS demand. Respondent obtained 37,000.00 from personal friends but had no source for the additional \$10,000.00. Respondent was extremely worried about this situation, and she believes this concern was apparent to T.M., who asked her what was the matter. When respondent explained her situation to him, T.M. offered to loan her the \$10,000.00. T.M. discussed the matter with C.M. and they jointly agreed to loan respondent the \$10,000.00.

#### VII

On February 27, 1987, respondent signed a promissory note made out to T.M. (the husband) for \$10,000.00, to be paid in 6 months at the rate of 10 percent interest. A loan fee of \$200.00 was to be paid to T.M. through counseling services. Respondent was also to pay T.M. a penalty fee of \$41.66 incurred by him at the time of the initiation of the loan. The note was later rewritten on a pre-printed promissory note form, which stated that the loan was to be repaid by August 27, 1987, at 10 percent interest. The note did not reflect the \$200.00 loan fee or the \$41.66 penalty fee.

#### VIII

Both C.M. and T.M. continued in therapy until approximately July of 1987. C.M. and T.M. were divorced in July of 1987, and respondent's promissory note to T.M. became part of C.M.'s divorce settlement.

#### IX

As of August 27, 1987, respondent had failed to make any payments on the promissory note. After numerous telephone calls by C.M., respondent began making payments on the note in October of 1987, and she paid off the principal portion of the note (\$10,000.00) by July of 1988. However, respondent continued to owe C.M. the interest due on the note; in addition, C.M. felt that respondent should pay approximately \$500.00 in credit card bills and interest incurred by C.M. when she charged items after her divorce and could not pay off her credit card bill because respondent had not repaid the note.

Respondent ceased making payments to C.M. after July, 1988. Respondent did not return any of C.M.'s repeated telephone calls regarding full repayment of the amounts owed; respondent felt embarrassed that she could not afford to repay the loan more quickly, and she felt helpless to deal with C.M.'s angry telephone messages. C.M. eventually sought the services of an attorney to recover the remainder of the note. In April of 1989, after telephone calls and a letter threatening a civil lawsuit

from C.M.'s attorney, respondent paid \$1,367.56 to C.M. in full satisfaction of the note.

X

Respondent acknowledged that she made several mistakes in her dealings with T.M. and C.M. and in her practice generally during the period between April of 1987 and September of 1989, as follows:

A. Respondent continued to treat patients, including C.M. and T.M., after March 31, 1987, while her license was in a cancelled status. Respondent's license was not renewed until September 30, 1989. In mitigation, the evidence established that respondent's failure to renew her license in a timely manner was an oversight stemming from her emotional agitation and distraction in connection with her financial situation in the spring of 1987.

B. Respondent's conduct in securing a loan from her patients exploited the psychiatrist-patient relationship and resulted in a conflict of interest arising out of the dual relationship created by the financial transaction. Respondent jeopardized the confidential relationship with C.M. and T.M. by using that relationship to exert undue influence in securing a loan from T.M., and she further jeopardized the patient-therapist relationship by failing to repay the loan as agreed. Respondent recognizes that her actions caused emotional stress and financial loss to C.M. and effectively destroyed her relationship with C.M., both personal and professional.

In mitigation, respondent was under severe emotional and financial stress which clouded her judgment in leading her to accept an offer of financial help from a patient.

C. Respondent agreed to provide therapy to T.M. to compensate him for a \$200.00 loan fee incurred by T.M. in connection with the promissory note. This "bartering" arrangement resulted in a dual relationship and created an inherent conflict of interest with potential to damage the therapist-patient relationship. At the time respondent made this agreement, respondent did not appreciate the possible harm which could result from bartering arrangements.

XI

Respondent's actions in connection with the \$10,000.00 loan violated the standards of ethics applicable to psychiatrists and constituted unprofessional conduct within the meaning of Business and Professions Code section 2234. The Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry, published by the American Psychiatric Association, note that there are special ethical problems faced by psychiatrists due to the "essentially private, highly personal, and sometimes intensely emotional nature of the relationship estab-

lished with the psychiatrist." A psychiatrist's "ethics and professional responsibilities preclude him/her gratifying his/her own needs by exploiting the patient." The psychiatrist is cautioned to "diligently guard against exploiting information furnished by the patient and ... not use the unique position of power afforded him/her by the psychotherapeutic situation to influence the patient in any way not directly relevant to the treatment goals."

Respondent secured personal gain, i.e., a \$10,000.00 loan, based exclusively on the doctor-patient relationship with T.M. and C.M. While she may not have done so consciously, she nevertheless exploited information obtained from the patient and used her position of power as therapist to influence T.M. in a way not relevant to treatment goals. Such conduct constitutes "corruption" within the meaning of Business and Professions Code section 2234(e).

## XII

In mitigation, the evidence established that respondent has been in practice for over 30 years with no prior misconduct, and she began her practice at a time when ethical issues concerning dual relationships were not widely discussed. Unfortunately, respondent has not been actively involved in professional organizations which would have made her more aware of these concerns. Respondent is willing to take courses in medical ethics as directed by the Board, and to comply with any other terms and conditions which may be imposed upon her medical practice.

Respondent expressed true remorse for her misconduct and demonstrated that she not only has insight into the factors which caused her prior mistakes but also an understanding of the nature of the wrongdoing. Respondent's misconduct herein was an aberration which is extremely unlikely to recur; and she made restitution to her former patient as soon as it was possible for her to do so. Under all of the circumstances, the public interest would not be compromised if respondent were to continue to practice with appropriate terms and conditions of probation.

## DETERMINATION OF ISSUES

### I

Clear and convincing evidence to a reasonable certainty established cause for discipline pursuant to Business and Professions Code section 2234(a) for violation of Business and Professions Code section 2052 by reason of Findings II, IV, VIII and X.A.

### II

Clear and convincing evidence to a reasonable certainty established cause for discipline pursuant to Business and Professions Code sections 2234 and 2234(e) by reason of Findings IV-XI.

## ORDER

Physician and surgeon license number G4971 issued to respondent Zena Linden, M.D. is hereby revoked pursuant to Determination of Issues I and II, separately and for both of them. However, revocation is stayed and respondent is placed on probation for five (5) years, subject to the following terms and conditions:

- A. Within 60 days of the effective date of this decision, respondent shall submit to the Division for its prior approval a course in Ethics, which respondent shall successfully complete during the first year of probation. Following the completion of this course, respondent shall take and pass an oral or written examination in the subject matter covered by the course, to be administered by the Division or its designee. If respondent fails this examination, respondent must take and pass a re-examination consisting of a written as well as an oral examination. The waiting period between repeat examinations shall be at three month intervals until success is achieved. The Division shall pay the cost of the first examination and respondent shall pay the cost of any subsequent re-examinations. If respondent fails to pass the examination by the end of the second year of probation, respondent shall cease the practice of medicine until the re-examination has been successfully passed. Failure to pass the required examination no later than 100 days prior to the termination date of probation shall constitute a violation of probation.
- B. Within 90 days of the effective date of this decision, and on an annual basis thereafter, respondent shall submit to the Division for its prior approval an educational program or course to be designated by the Division, which shall not be less than 25 hours per year, for each year of probation. This program shall be in addition to the Continuing Medical Education requirements for re-licensure. Following the completion of each course, the Division or its designee may administer an examination to test respondent's knowledge of the course. Respondent shall provide proof of attendance for 50 hours of continuing medical education of which 25 were in satisfaction of this condition and were approved in advance by the Division.
- C. Within 30 days of the effective date of this decision, respondent shall submit to the Division for its prior approval a plan of practice in which respondent's practice shall be monitored by another physician in respondent's field of practice, who shall provide periodic reports to the Division. If

the monitor resigns or is no longer available, respondent shall, within 15 days, move to have a new monitor appointed, through nomination by respondent and approval by the Division.

- D. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in California.
- E. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation.
- F. Respondent shall comply with the Division's probation surveillance program.
- G. Respondent shall appear in person for interviews with the Division's medical consultant upon request at various intervals and with reasonable notice.
- H. The period of probation shall not run during the time respondent is residing or practicing outside the jurisdiction of California. If, during probation, respondent moves out of the jurisdiction of California to reside or practice elsewhere, respondent is required to immediately notify the Division in writing of the date of departure, and the date of return, if any.
- I. Upon successful completion of probation, respondent's certificate will be fully restored.
- J. If respondent violates probation in any respect, the Division, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

DATED: March 6, 1991

Catherine B. Frink  
CATHERINE B. FRINK  
Administrative Law Judge

CBF:wc

1 JOHN K. VAN DE KAMP, Attorney General  
of the State of California  
2 ALFREDO TERRAZAS  
Deputy Attorney General  
3 455 Golden Gate Avenue, Suite 6200  
San Francisco, California 94102-3658  
4 Telephone: (415) 557-2515

5 Attorneys for Complainant

6  
7 BEFORE THE  
8 DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
9 STATE OF CALIFORNIA

10 In the Matter of the Accusation )

11 Against: )

No. D-4264

12 ZENA LINDEN, M.D. )

800 Pollard Road, #B-207 )

13 Los Gatos, California 95030 )

Physician and Surgeon License )

14 No. G4971 )

15 Respondent. )

16

17 Complainant, KENNETH WAGSTAFF, alleges as follows:

18 1. He is the Executive Director of the Medical Board  
19 of California (hereinafter the "Board") and makes and files this  
20 accusation solely in his official capacity.

21 LICENSE HISTORY

22 2. At all times since October 2, 1958, and continuing  
23 until March 31, 1987, respondent, Zena Linden, M.D. (hereinafter  
24 referred to as "respondent"), held Physician and Surgeon License  
25 No. G4971 authorizing her to practice medicine in the State of  
26 California. An accusation was filed against respondent's license  
27 on April 12, 1977; the accusation was subsequently dismissed on



1 August 9, 1978. Respondent's license was in a cancelled status  
2 from March 31, 1987, until September 30, 1989. Said license is  
3 currently in good standing with an expiration date of March 31,  
4 1991.

#### 5 STATUTES

6 3. Section 2234 of the Business and Professions Code<sup>1/</sup>  
7 states that the Division of Medical Quality (hereinafter the  
8 "Division") may take action against any licensee who is charged  
9 with unprofessional conduct."

10 4. Section 2234(a) states that violating or attempting  
11 to violate, directly or indirectly, or assisting in or abetting  
12 the violation of, or conspiring to violate, any provision of this  
13 chapter constitutes unprofessional conduct.

14 5. Section 2234(e) states that the commission of any  
15 act involving dishonesty or corruption which is substantially  
16 related to the qualifications, functions, or duties of a  
17 physician and surgeon," constitutes unprofessional conduct.

18 6. Section 2052 states, in pertinent part, that:

19 "(a)ny person who practices or attempts to practice,  
20 or who advertises or holds himself or herself out as  
21 practicing, any system or mode of treating the sick or  
22 afflicted in this state, or who diagnoses, treats,  
23 operates for, or prescribes for any ailment, . . . or  
24 other physical or mental condition of any person,  
25 without having at the time of so doing a valid,  
26 unrevoked, or unsuspended certificate as provided in  
27 this chapter, or without being authorized to perform  
such act pursuant to a certificate obtained in  
accordance with some other provision of law, is guilty  
of a misdemeanor." (Emphasis added).

---

1. All statutory references are to the Business and Professions Code unless otherwise indicated.

1 CODE OF ETHICS

2 7. The Principles of Medical Ethics With Annotations  
3 Especially Applicable To Psychiatry, published by the American  
4 Psychiatric Association, state as follows:

5 "While psychiatrists have the same goals as all  
6 physicians, there are special ethical problems in  
7 psychiatric practice that differ in color and degree  
8 from ethical problems in other branches in medical  
9 practice, even though the basic principles are the  
10 same." (FOREWARD, Paragraph 2).

11 Section 1, paragraph 1, states as follows:

12 "SECTION 1

13 "A physician shall be dedicated to providing  
14 competent medical service with compassion and  
15 respect for human dignity.

16 "1. The patient may place his/her trust in  
17 his/her psychiatrist knowing that the psychiatrist's  
18 ethics and professional responsibilities preclude  
19 him/her gratifying his/her own needs by exploiting the  
20 patient. This becomes particularly important because  
21 of the essentially private, highly personal, and  
22 sometimes intensely emotional nature of the  
23 relationship established with the psychiatrist."

24 Section 2, paragraphs 1 and 2, state, in pertinent  
25 part, as follows:

26 "SECTION 2

27 "A physician shall deal honestly with patients  
and colleagues, and strive to expose those  
physicians deficient in character or competence,  
or who engage in fraud or deception.

"1. The requirement that the physician conduct  
himself with propriety in his/her profession and in all  
the actions of his/her life is especially important in  
the case of the psychiatrist because the patient tends  
to model his/her behavior after that of his/her  
therapist by identification. Further, the necessary  
intensity of the therapeutic relationship may tend to  
activate sexual and other needs and fantasies on the  
part of both patient and therapist, while weakening the

1 objectivity necessary for control. Sexual activity  
2 with a patient is unethical.

3 "2. The psychiatrist should diligently guard  
4 against exploiting information furnished by the patient  
5 and should not use the unique position of power  
6 afforded him/her by the psychotherapeutic situation to  
7 influence the patient in any way not directly relevant  
8 to the treatment goals.

#### 6 HISTORY

7 8. On or about January, 1987, and continuing until on  
8 or about May, 1987, patients T.M. and C.M.<sup>2/3</sup>, who were husband  
9 and wife, respectively, but separated from each other, saw  
10 respondent for psychotherapy. C.M. and T.M. each saw respondent  
11 individually, in weekly sessions.

12 9. In February, 1987, respondent asked T.M. if she  
13 could borrow \$10,000.00. T.M. and C.M. thereafter jointly  
14 decided to loan respondent the money.

15 10. On February 27 1987, respondent signed a  
16 promissory note made out to T.M. (the husband) for \$10,000.00, to  
17 be paid in six months at the rate of ten percent interest. A  
18 loan fee of \$200.00 was to be paid to T.M. through counseling  
19 services. Respondent was also to pay T.M. a penalty fee of  
20 \$41.66 incurred by him at the time of the initiation of the loan.  
21 The note was later rewritten on a pre-printed promissory note  
22 form, which stated that the loan was to be repaid by August 27,

23 //

24 //

---

25 2. Initials are used to describe the patients in this  
26 Accusation. Full names will be disclosed pursuant to a request  
27 for discovery.

27 3. T. M. had seen respondent for psychotherapy  
approximately 17 years earlier.

1 1987, at ten percent interest. The note did not reflect the  
2 \$200.00 loan fee or \$41.66 penalty fee.

3 11. Both C.M. and T.M. concluded therapy sessions with  
4 respondent in or about May, 1987. In or about July, 1987, C.M.  
5 and T.M. divorced, and respondent's promissory note to T.M.  
6 became part of C.M.'s divorce settlement.

7 12. As of August 27, 1987, respondent had failed to  
8 make any payments on the promissory note. Respondent did not  
9 return any of C.M.'s repeated telephone calls regarding repayment  
10 of the note. Respondent began making payments in or about  
11 October, 1987, and continuing until on or about July, 1988.  
12 Respondent then ceased making payments for approximately nine  
13 months. During this period C.M. sought the services of an  
14 attorney to recover the remainder of the note.

15 13. As a result of telephone calls and a letter  
16 threatening a civil lawsuit from C.M.'s attorney, respondent made  
17 a final payment on the loan on or about July 7, 1989.

18 FIRST CAUSE FOR DISCIPLINARY ACTION

19 14. The allegations of paragraphs 8 through 13  
20 hereinabove are hereby incorporated by reference as though set  
21 forth in full.

22 15. Respondent's conduct in securing a loan from her  
23 patients exploited the psychiatrist-patient relationship.  
24 Because of the trust and vulnerabilities inherent in the  
25 psychiatrist-patient relationship, The American Psychiatric  
26 Association's Principles of Medical Ethics requires psychiatrists  
27 to subjugate their own needs to those of the patient. This

1 precludes the creation of a debtor-creditor relationship between  
2 the psychiatrist and the patient. Such a dual relationship  
3 clearly creates a conflict of interest.

4 16. Respondent has further violated ethical  
5 considerations by securing personal gain in the form of a  
6 \$10,000.00 loan based exclusively on a doctor-patient  
7 relationship with C.M. and T.M.. This conduct by respondent  
8 demonstrates the commission of an act involving dishonesty or  
9 corruption which is substantially related to her functions as a  
10 psychiatrist and cause for disciplinary action pursuant to  
11 section 2234(e).

12 17. Respondent jeopardized the confidential  
13 relationship with C.M. and T.M. by using that relationship as  
14 undue influence to secure a loan, and she further jeopardized the  
15 patient/therapist relationship by not re-paying the loan as  
16 agreed. Therefore, respondent has subjected her License No.  
17 G4971 to disciplinary action pursuant to section 2234 (general  
18 unprofessional conduct).

19 SECOND CAUSE FOR DISCIPLINARY ACTION

20 18. The allegations of the License History and  
21 paragraphs 8 through 13 hereinabove are hereby incorporated by  
22 reference as though set forth in full.

23 19. Respondent's license was in a cancelled status for  
24 an extended period of time, approximately from March 31, 1987  
25 until September 30, 1989 and for a substantial period of time  
26 while she was treating patients C.M. and T.M.

27 //

20. The above-mentioned conduct by respondent of treating patients without having at the time of so doing a valid certificate is in violation of section 2052 and constitutes cause for disciplinary action pursuant to section 2234(a).

WHEREFORE, complainant requests that the Division of Medical Quality schedule a hearing in this matter and thereafter issue an order suspending or revoking physician and surgeon license number G4971 and taking such other action as the Board deems proper.

**DATED:** May 31, 1990

KENNETH WAGSTAFF  
Executive Director  
Medical Board of California  
State of California

**Complainant**

03573110  
SF90AD0118